

REMARKS

Amendments

The claims are amended as noted above. The amendments to the claims are fully supported by the specification, for example at page 3, lines 3-7; page 3, line 21 – page 5, line 14; page 6, lines 23-26. New claim 13 is an independent claim designed to cover the method comprising moisturizing cream base containing no moisture. None of these amendments to the claims constitute new matter.

THE OFFICE ACTION

I. Rejections of claims under 35 U.S.C. § 103(a).

A. Claims 1, 2, 4-6, 9, and 10 stand rejected under 35 U.S.C. § 103(a), alleged to be obvious and unpatentable over EP 0032793 (EP '793). Specifically, EP '793 is alleged to disclose a mitten-like cleansing article, made of a web coated with a cleansing agent, and that such an article is compatible with a protective glove because it uses the same chemical composition. Further, it is asserted that it was obvious to one of skill in the art to apply moisturizing cream to the skin prior to applying the glove. Applicants respectfully traverse the rejections.

In order to establish a prima facie case of obviousness, there must exist 1) a suggestion or motivation, either in the cited references or general knowledge of one of skill in the art, to modify or combine reference teachings; 2) a reasonable expectation of success; and 3) the cited art references must teach or suggest all the claim limitations. M.P.E.P. § 2143.

EP '793 fails to disclose or suggest a method of donning a protective glove comprising contacting the skin of the hands and/or forearms with an article of manufacture comprising a substrate impregnated or coated at least partially with a moisturizing cream base that contains little or no moisture, which is transferred uniformly to the skin prior to donning the glove. The uniformity of the application of the moisturizing cream base helps to decrease the amount of slippage between the hand and the glove, through increased frictional or viscosity between the hand and the glove.

The disclosure found in EP '793 is drawn toward a cleansing article that releasably contains an oleaginous cleansing agent. As acknowledged in the Office Action, EP '793 fails to disclose application of a moisturizing cream base on the hand prior to application of the glove. In fact, the

McDONNELL BOEHLEN HULBERT & BERCHOFF
300 South Wacker Drive
Chicago, Illinois 60606
312/913-0801 (telephone)
312/913-0002 (facsimile)

4

U.S. Serial No.: 09/806,431

teaching of EP '793 would teach one of skill away from the claimed method, as a primary concern of that invention is the resilient fibrous web and web-backing material that provide a strong barrier between the user's hand and the oleaginous cleansing agent. The disclosure of the EP '793 patent in no way teaches or suggests to one of skill the desirability of creating a moisturizing protective barrier between the user's hand and glove. EP '793 provides no guidance to one of skill that application of a cream base to the wearer's hand before donning the glove provides any desirable advantage. The only discussion of emollients and skin conditioners in EP '793 is with respect to co-application of such compounds with the oleaginous cleansing agent to the surface to be cleansed and not the wearer's hand. (See, e.g., pg. 9, ln.14-23; pg.10, ln.23-28; and pp.14-15). Thus, the disclosure of EP '793 does not provide the proper basis for an obviousness rejection under 35 U.S.C. § 103, as it teaches away from the claimed invention. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection under 35 U.S.C. § 103(a).

Claim 9 is asserted as obvious for allegedly reciting an optimized amount of moisturizing cream base impregnated in the substrate as a result-effective variable, citing to *In re Boesch* for authority. Applicants respectfully assert that the amount of moisturizing cream base impregnated in the substrate should not be considered a result-effective variable. The prior art does not suggest or recognize that a particular amount of cream base impregnated in the substrate (e.g., up to four times the weight of the substrate) achieves the result of a uniform transfer of the cream base to the skin, as in the claimed invention. Therefore, the optimized parameter of amount of cream base impregnated or at least partially coated on the substrate is not recognized in the art as a result-effective variable. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977), M.P.E.P. § 2144.05 (III)(B).

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 9 under § 103.

B. Claims 1, 2, and 4-10 stand rejected under 35 U.S.C. § 103(a), alleged to be obvious and unpatentable over Sine, et al. (US 6,183,766). Specifically, Sine et al. is asserted to teach a wipe that has incorporated in it a conditioning agent comprising such compounds as cholesterol, jojoba oil, and vitamin E. This, in combination with the knowledge of one of skill in the art, is asserted to make application of the moisturizing cream prior to application of a glove obvious and

McDONNELL BOEHLEN HULBERT & BERGHOFF
300 South Wacker Drive
Chicago, Illinois 60606
312/913-0001 (telephone)
312/913-0002 (facsimile)

5

U.S. Serial No.: 09/806,431

unpatentable, as there exists an alleged motivation to create a moisturizing protective barrier. Applicants respectfully traverse the rejection.

The disclosure found of Sine et al. is drawn toward a composition for sanitizing and moisturizing skin, particularly in situations when sinks and washroom facilities are unavailable or unsanitary. As acknowledged in the Office action, Sine et al. fails to disclose application of a moisturizing cream base on the hand prior to application of the glove. Again, Sine et al. would teach one of skill away from the claimed method, as their invention is drawn toward sanitizing one's hands with the claimed composition and does not contemplate, suggest, or teach subsequent donning of latex gloves. Thus, the disclosure combined with the common knowledge of one of skill in the art does not teach all the limitations of the instant invention, as claimed.

Further, Applicants respectfully assert that the Examiner has not pointed to concrete substantial evidence of support for the assertion that uniform application to the skin of a cream base having little to no moisture prior to the donning of a glove is well known or common knowledge. *In re Zurko*, 258 F.3d 1379, 1387 (Fed. Cir. 2001). Nothing in the cited references teach or suggest that the compositions and/or cleaning articles can be advantageously combined to result in a method of donning a glove that provides advantages of a protective moisture barrier or decreased slippage of the wearer's hand in the glove. *In re Lee*, 277 F.3d 1338, 1344-45 (Fed. Cir. 2002).

Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection under 35 U.S.C. § 103(a).

Claim 9 is again rejected for the reasons stated above. Applicants respectfully reassert the above arguments against this rejection, and request reconsideration and withdrawal of the rejection of claim 9.

C. Claim 3 stands rejected on two separate counts under 35 U.S.C. § 103. The claim is alleged obvious and unpatentable over EP '793 (above), in view of Weinstein (U.S. 5,961,500), and separately over Sine et al. (above), in view of Weinstein. More specifically, it is alleged that Weinstein teaches a disposable wipe coated with a dermatological fluid that is also sterile. Applicants respectfully traverse the rejection.

The deficiencies of both EP '793 and Sine et al. are detailed above. The disclosure of Weinstein does nothing to cure the deficiencies of either EP '793 or Sine et al. As claim 3 is

McDONNELL BOEHNNEN HULBERT & BERGHOF
300 South Wacker Drive
Chicago, Illinois 60606
312/913-0001 (telephone)
312/913-0002 (facsimile)

6

U.S. Serial No.: 09/806,431

dependent on the method of claim 1, and claim 1 is patentable as argued above, claim 3 cannot be considered obvious as the claim from which it depends is non-obvious and patentable. The disclosure of a sterilized wipe, without disclosing, teaching, or suggesting the method of claim 1 does not provide the proper basis for a rejection under 35 U.S.C. § 103(a).

Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection under 35 U.S.C. § 103(a).

Conclusion

If the Examiner has any questions regarding this Response, the Examiner is invited to call the undersigned.

Respectfully submitted,
McDonnell Boehnen Hulbert & Berghoff

Dated: 11-10-03

By: 

Michael S. Greenfield
Registration No. 37142

McDONNELL BOEHNEN HULBERT & BERGHOFF
300 South Wacker Drive
Chicago, Illinois 60606
312/913-0001 (telephone)
312/913-0002 (facsimile)

7

U.S. Serial No.: 09/806,431